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WC 06-194

FILED/ACCEPTED

OCT 20 2006

Federal Communications Commission  
Office of the Secretary

**BEFORE THE FEDERAL COMMUNICATIONS COMMISSION**

In the Matter of Petition of Autotel )  
pursuant to Section 252(e)(5) of the )  
Communications Act for Preemption of the )  
Jurisdiction of the Arizona Corporation )  
Commission Regarding Arbitration of an )  
Interconnection Agreement with Citizens )  
Utilities Rural Company, Inc. )

**PETITION FOR PREEMPTION**

Pursuant to Section 252(e)(5) of the Communications Act, Autotel hereby petitions for preemption of the jurisdiction of the Arizona Corporation Commission regarding a Bona Fide Request for and Request for Termination for Exemption, as well as a Petition for Arbitration, both regarding Citizens Utilities Rural Company, Inc. This Petition is supported by the affidavit of Richard L. Oberdorfer, President of Autotel, and the Arizona Commission orders dismissing the Request and the Petition, both attached to this Petition.

**POINTS AND AUTHORITIES**

Section 252(b) of the Act provides:

(4) Action by State Commission

(C) The State commission shall resolve each issue set forth in the petition and the response, if any, by imposing appropriate conditions as required to implement subsection (c) of this section upon the parties to the agreement, and shall conclude the resolution of any unresolved issues not later than 9 months after the date on which the local exchange carrier received the request under this section.

Section 252(b)(4)(C) gives a State commission nine months after the date the LEC receives the request to resolve each issue set forth in the petition and the response.

As explained in the Affidavit of Richard L. Oberdorfer accompanying this Petition,

PETITION FOR PREEMPTION - PAGE 1

Autotel is a small CMRS company which provides wireless service in Nevada. On November 21, 2005, Citizens received Autotel's request for interconnection negotiations, and on that date Autotel filed with the ACC its Notice of Bona Fide Request and Request for Termination of Exemption. Thereafter, Citizens refused to negotiate an interconnection agreement with Autotel.

On March 23, 2006, the ACC dismissed Autotel's Request for Termination of Exemption, with prejudice, without addressing the issues raised therein.

On April 7, 2006, Autotel filed with the Arizona Commission a Petition for Arbitration pursuant to Section 252(b) of the Communications Act.

On July 28, 2006, the Arizona Commission granted Citizens' Motion to Dismiss the Petition, with prejudice, without addressing the issues raised therein.

In dismissing these matters, the Commission did not resolve the unresolved issues between the parties. The Commission did not schedule any proceeding in order to complete its duties under section 252(b)(4). The Commission requested no information from either party necessary for resolution of the unresolved issues. The Commission did not make a determination as to whether the contract language proposed by Autotel meets the requirements of section 251 and the regulations. At least nine months has elapsed since Citizens received the request for negotiation of an interconnection agreement.

The situation is akin to that in In re Petition of MCI for Preemption Pursuant to Section 252(e)(5) of the Telecommunications Act of 1996, 12 F.C.C.R., 15594. In that case the FCC explained that a state agency can fail to act under section 252(e)(5) even if it has issued an arbitration order, if that order is a general dismissal that does not resolve all issues "clearly and specifically" presented to it. Id. at 27. See also Global NAPS, Inc. v. Federal Communications Commission, 291 F.3d 832 (D.C. Cir. 2002) ("The FCC's interpretation thus suggests that only if

PETITION FOR PREEMPTION - PAGE 2

the state commission either does not respond to a request, or refuses to resolve a particular matter raised in a request, does preemption become a viable option") (emph. added).

The statutory nine-month limit to resolve open issues has elapsed. None of the open issues have been resolved by the ACC. The ACC incorrectly found that there is in effect an interconnection agreement between the parties that addresses the issues that were raised.

Respectfully submitted October 16, 2006.



Marianne Dugan, attorney  
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(541) 338-7072  
Fax (541) 686-2137

**BEFORE THE FEDERAL COMMUNICATIONS COMMISSION**

In the Matter of Petition of Autotel                     )  
pursuant to Section 252(e)(5) of the                     )  
Communications Act for Preemption of the             )  
Jurisdiction of the Arizona Corporation               )  
Commission Regarding Termination of                 )  
Exemption and Arbitration of an                        )  
Interconnection Agreement with Citizens               )  
Utilities Rural Company, Inc.                             )

**AFFIDAVIT OF RICHARD L OBERDORFER**

I, Richard L. Oberdorfer, being duly sworn, deposes and says:

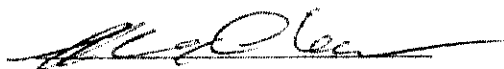
1. I own two small CMRS companies, Western Radio Services Co. (Western) which provides wireless service in Oregon and Autotel which provides wireless service in Nevada.
2. I am the person which represents both companies in interconnection negotiations with ILECs and sometimes I represent those companies in Arbitration proceedings before State Commissions.
3. November 21, 2005 is the date that Citizens Utilities Rural Company, Inc. (Citizens) received Autotel's request for interconnection negotiations. On that same day Autotel filed with the Arizona Corporation Commission (ACC) its Notice of Bona Fida Request and Request for Termination of Exemption.
4. Thereafter, Citizens refused to negotiate an interconnect agreement with Autotel.
5. On January 6, 2006, Citizens filed with the ACC its Motion to Dismiss the Termination of Exemption proceeding initiated by the ACC.
6. On March 23, 2006, the ACC dismissed Autotel's Request for Termination of Exemption with prejudice.
7. On April 7, 2006, I filed with the ACC a Petition for Arbitration under Section 252(b) on behalf of Autotel.

8. On May 1, 2006, Citizens filed a Response which included a Motion to Dismiss the Petition.

9. On July 28, 2006 the ACC granted the Citizens Motion to Dismiss with prejudice.

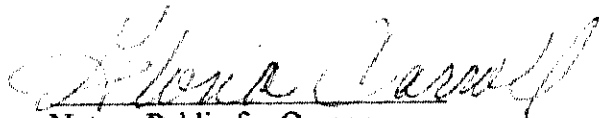
10. The Commission has not scheduled any proceeding in order to complete its duties under section 252(b)(4). The Commission has not requested any information from either party necessary for resolution of the unresolved issues. The Commission has not made a determination as to whether the contract language proposed by Autotel meets the requirements of section 251 and the regulations. At least 9 months has elapsed since the date on which the non-requesting party received the request for negotiation of an interconnection agreement.

I declare under the penalty of perjury that the above is true and correct and this Affidavit was executed on the 22 th day of August, 2006 in Bend, Oregon.

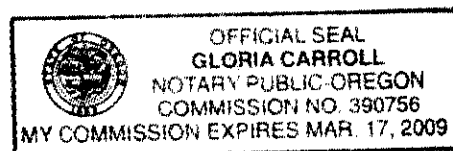


Richard L. Oberdorfer

Subscribed and sworn to before me this 22 day of August, 2006



Notary Public for Oregon  
My Commission Expires:





0000041386

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

DOCKETED

MAR 23 2006

JEFF HATCH-MILLER, Chairman  
WILLIAM A. MUNDELL  
MARC SPITZER  
MIKE GLEASON  
KRISTIN K. MAYES

DOCKETED BY

CM

IN THE MATTER OF THE REQUEST OF  
AUTOTEL FOR INTERCONNECTION SERVICES  
AND NETWORK ELEMENTS WITH CITIZENS  
UTILITIES RURAL COMPANY, INC. AND FOR  
AN INQUIRY BY THE ARIZONA  
CORPORATION COMMISSION AND  
TERMINATION OF THE EXEMPTION OF  
CITIZENS UTILITIES RURAL COMPANY, INC.  
PURSUANT TO SECTION 251(f)(1)(B) OF THE  
TELECOMMUNICATIONS ACT OF 1996.

DOCKET NO. T-01954B-05-0852

DECISION NO. 68605

**OPINION AND ORDER**

DATE OF HEARING:

December 12, 2005 (procedural conference); February  
6, 2006 (date scheduled for oral argument)

PLACE OF HEARING:

Phoenix, Arizona

ADMINISTRATIVE LAW JUDGE:

Amy Bjelland

APPEARANCES:

Richard Oberdorfer, President of Autotel;

Kevin Saville, Associate General Counsel, Citizens  
Communications; and

Maureen Scott, Staff Attorney, Legal Division, on  
behalf of the Utilities Division of the Arizona  
Corporation Commission.

**BY THE COMMISSION:**

On November 21, 2005, Autotel filed with the Arizona Corporation Commission ("Commission") a Notice of its Bona Fide Request for interconnection, services and network elements with Citizens Utilities Rural Company, Inc. ("Citizens") pursuant to A.A.C. R14-2-1505 and Section 252(b) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996 ("the Act") and for an inquiry by the Commission and termination of the exemption of Citizens pursuant to section 251(f)(1)(B) of the Telecommunications Act of 1996.

Pursuant to the Act, the Commission must act on the request within 120 days. The timeclock was suspended by Procedural Order on December 16, 2005.

1 On December 12, 2005, pursuant to Procedural Order, a procedural conference was held.  
2 Two legal issues were discussed at the conference. The first issue discussed was whether Autotel is  
3 precluded from filing the application in this docket due to its pending appeal in Decision No. 67273  
4 (October 5, 2004). The second issue relates to the rationale or necessity of terminating Citizens'  
5 exemption under the Act with regard to the requested Interconnection Agreement.

6 On February 6, 2006, pursuant to Procedural Order, a procedural conference was held for the  
7 purpose of oral argument. Richard Oberdorfer, President of Autotel, unexpectedly failed to make an  
8 appearance. Monica Davis, office manager for Mr. Oberdorfer, was present via telephone on behalf  
9 of Autotel, but stated that she is not an attorney. Counsel for Citizens and counsel for the  
10 Commission's Utilities Division ("Staff") were both present.

11 At the time appointed for oral argument, Ms. Davis stated that Mr. Oberdorfer was out of the  
12 country and Autotel was satisfied with the existing record and would not object to going forward  
13 solely on the pleadings filed in the docket.

14 On February 6, 2006, by Procedural Order, the parties were notified that unless an objection  
15 was filed by February 15, 2006, requesting oral argument, the matter would be taken under  
16 advisement based upon the existing pleadings. No objection was filed.

17  
18 Having considered the entire record herein and being fully advised in the premises, the  
19 Commission finds, concludes, and orders that:

20 **FINDINGS OF FACT**

21 1. Autotel is a Commercial Mobile Radio Service ("CMRS") provider. This filing  
22 constitutes Autotel's first filing subsequent to its previous arbitration of an Interconnection  
23 Agreement ("ICA") with Citizens. Autotel previously filed a petition for arbitration of an ICA with  
24 Citizens on March 27, 2003. The issues raised in the petition were determined by Decision No.  
25 67273 (October 5, 2004). According to Citizens and Staff, Autotel has refused to sign the ICA that  
26 incorporates the results of the arbitration.

27 2. On May 5, 20025, Autotel filed a Complaint in the United States District Court for the  
28 District of Arizona ("Federal Complaint") alleging that the Commission's Decision and the Approved

1 ICA do not comply with the Act. Citizens and the Commission have filed motions to dismiss, which  
2 remain pending with the Federal Complaint.

3 3. On November 21, 2005, Autotel filed with the Commission a Notice for  
4 interconnection, services and network elements with Citizens pursuant to A.A.C. R14-2-1505 and  
5 Section 252(b) of the Communications Act of 1934, as amended by the Act and for an inquiry by the  
6 Commission and termination of the exemption of Citizens pursuant to section 251(f)(1)(B) of the  
7 Telecommunications Act of 1996.

8 4. Pursuant to the Act, the Commission must act on the request within 120 days.<sup>1</sup>

9 5. On December 12, 2005, pursuant to Procedural Order, a procedural conference was  
10 held. Two legal issues were discussed at the conference. The first issue discussed was whether  
11 Autotel is precluded from filing the application in this docket due to its pending appeal in Decision  
12 No. 67273 (October 5, 2004). The second issue relates to the rationale or necessity of terminating  
13 Citizens' exemption under the Act with regard to the requested Interconnection Agreement.

14 6. On January 6, 2006, Autotel, Citizens and Staff filed Opening Briefs. Citizens  
15 included a Motion to Dismiss in its filing. Staffs Brief recommended that the Notice be dismissed.

16 7. On January 20, 2006, Citizens filed a Motion to Permit Kevin Saville, Esq. to Appear  
17 *Pro Hac Vice* Pursuant to Rule 33, Rules of Supreme Court. This motion was granted by Procedural  
18 Order on February 7, 2006.

19 8. On January 27, 2006, Autotel and Citizens filed Response Briefs.

20 9. On February 6, 2006, pursuant to Procedural Order, a procedural conference was held  
21 for the purpose of oral argument. Richard Oberdorfer, President of Autotel, unexpectedly failed to  
22 make an appearance.<sup>2</sup> Monica Davis, office manager for Mr. Oberdorfer, was present via telephone  
23 on behalf of Autotel, but stated that she is not an attorney. Counsel for Citizens and counsel for Staff  
24 were both present.

25 10. At the time appointed for oral argument, Ms. Davis stated that Mr. Oberdorfer was out

26 <sup>1</sup> The timeclock was suspended by Procedural Order on December 16, 2005 pending resolution of the legal issues  
27 determined herein.

28 <sup>2</sup> Mr. Oberdorfer had specifically contacted counsel for Citizens on January 24, 2006 to request the opportunity to  
participate telephonically. The request was received from counsel for Citizens and granted by the Administrative Law  
Judge on February 1, 2006.



1 if the country and that Autotel was satisfied with the existing record and would not object to going  
2 forward solely on the pleadings filed in the docket.

3 11. On February 6, 2006, by Procedural Order, the parties were notified that unless an  
4 objection was filed by February 15, 2006, requesting oral argument, the matter would be taken under  
5 advisement based upon the existing pleadings. No objection was filed.

6 12. Prior to reaching the issues enumerated by Autotel in this docket, we must address the  
7 legal objections to the Notice raised by Citizens and Staff.

8 13. Both Citizens and Staff argue that Autotel's Notice is essentially an attempt to ignore  
9 the previous Decision and attempt to void the Decision and resulting Approved ICA by unilaterally  
10 initiating ICA negotiations under the Act. First, Citizens has not invoked the exemption provided to  
11 it under § 251(f), which provides:

12 (f) EXEMPTIONS, SUSPENSIONS, AND MODIFICATIONS.

13 (1) EXEMPTION FOR CERTAIN RURAL TELEPHONE COMPANIES

14 (A) EXEMPTION. Subsection (c) of this section shall not apply to  
15 a rural telephone company until (i) such company has received a bona fide  
16 request for interconnection, services, or network elements, and (ii) the  
17 State commission determines (under subparagraph (B)) that such request  
18 is not unduly economically burdensome, is technically feasible, and is  
19 consistent with section 254 (other than subsections (b)(7) and (c)(1)(D)  
20 thereof).

21 (B) STATE TERMINATION OF EXEMPTION AND  
22 IMPLEMENTATION SCHEDULE. The party making a bona fide  
23 request of a rural telephone company for interconnection, services, or  
24 network elements shall submit a notice of its request to the State  
25 commission. The State commission shall conduct an inquiry for the  
26 purpose of determining whether to terminate the exemption under  
27 subparagraph (A). Within 120 days after the State commission receives  
28 notice of the request, the State commission shall terminate the exemption  
if the request is not unduly economically burdensome, is technically  
feasible, and is consistent with section 254 (other than subsections (b)(7)  
and (c)(1)(D) thereof). Upon termination of the exemption, a State  
commission shall establish an implementation schedule for compliance  
with the request that is consistent in time and manner with Commission  
regulations.

26 Citizens and Staff have stated concisely in their Briefs why Autotel's Notice should be dismissed.  
27 First, Autotel stated on the record that it wishes to interconnect with Citizens' network to provide  
28 wireless service in Arizona and does not seek unbundled network elements. Second, interconnection

1 with Citizens' network is possible under the previous Decision and resulting ICA, which is binding  
2 on both parties and may not be ignored by either party. Citizens pointed out that Autotel has failed to  
3 address its previous lengthy interconnection arbitration proceeding, with which Autotel has chosen,  
4 for unknown reasons, not to comply. Autotel's arguments are not persuasive, and it has cited no legal  
5 authority that overcomes, or adequately addresses, the arguments set forth by Citizens and Staff.

6 14. We therefore agree with Staff and Citizens that Autotel's Notice should be dismissed,  
7 and will do so with prejudice. We admonish Autotel for its waste of administrative and judicial  
8 resources in filing this Notice while its Federal Complaint remains pending and while it has failed to  
9 make use of its Approved ICA. Autotel has further wasted Commission resources in failing to send a  
10 suitable representative to appear for oral argument. Although this Commission does not regulate  
11 Autotel apart from its role in arbitration pursuant to the Act, it is our hope that Autotel will take this  
12 admonishment into account for purposes of future filings and its deportment in those proceedings.

#### 13 CONCLUSIONS OF LAW

14 1. Citizens and Autotel are public service corporations within the meaning of Article XV  
15 of the Arizona Constitution.

16 2. Citizens and Autotel are telecommunications carriers within the meaning of 47 U.S.C.  
17 §§ 251 and 252.

18 3. The Commission has jurisdiction over Citizens and Autotel and the subject matter of  
19 the Petition pursuant to 47 U.S.C. §§ 251 and 252 and A.A.C. R14-2-1501.

20 4. The Commission's resolution of the issues pending herein is just and reasonable,  
21 meets the requirements of the Act and regulations prescribed by the FCC pursuant to the Act, is  
22 consistent with the best interests of the parties, and is in the public interest.

23 ...

24 ...

25 ...

26 ...

27 ...

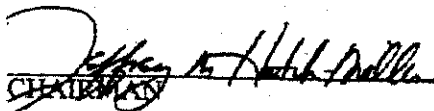
28 ...

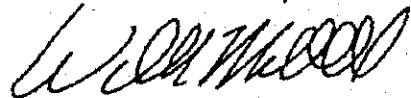
**ORDER**

IT IS THEREFORE ORDERED that Autotel's Notice of its Bona Fida Request for interconnection, services and network elements with Citizens Utilities Rural Company, Inc. is hereby dismissed with prejudice.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

  
CHAIRMAN



COMMISSIONER

  
COMMISSIONER

  
COMMISSIONER

  
COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this 23rd day of March, 2006.

  
BRIAN C. McNEIL  
EXECUTIVE DIRECTOR

DISSENT \_\_\_\_\_

DISSENT \_\_\_\_\_

SERVICE LIST FOR:

AUTOTEL/CITIZENS

DOCKET NO.:

T-01945B-05-0852

Richard L. Oberdorfer  
114 N.E. Penn Avenue  
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Robert J. Metli  
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Ernest G. Johnson, Director  
Utilities Division  
ARIZONA CORPORATION COMMISSION  
1200 West Washington  
Phoenix, AZ 85007

ORIGINAL



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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

COMMISSIONERS

2006 JUL 28 P 2:30

DOCKETED

JUL 28 2006

JEFF HATCH-MILLER, Chairman  
WILLIAM A. MUNDELL  
MIKE GLEASON  
KRISTIN K. MAYES  
BARRY WONG

AZ CORP COMMISSION  
DOCUMENT CONTROL

DOCKETED BY

nr

IN THE MATTER OF THE PETITION BY  
AUTOTEL FOR ARBITRATION OF THE  
INTERCONNECTION AGREEMENT WITH  
CITIZENS UTILITIES RURAL COMPANY, INC.  
PURSUANT TO SECTION 252(b) OF THE  
TELECOMMUNICATIONS ACT.

DOCKET NO. T-01954B-06-0232

PROCEDURAL ORDER

**BY THE COMMISSION:**

On April 7, 2006, Autotel filed with the Arizona Corporation Commission ("Commission") a Petition for Arbitration of a proposed interconnection agreement ("ICA") with Citizens Utilities Rural Company, Inc. ("Citizens") pursuant to A.A.C. R14-2-1505 and Section 252(b) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996 ("the Act").<sup>1</sup>

On May 2, 2006, Citizens filed its Response and Motion to Dismiss Autotel's Arbitration Request. Commission Rule R14-3-101 provides that, where neither the law nor Commission rules set forth procedure to be followed, the Arizona Rules of Civil Procedure shall govern. As neither the law, nor Commission rule provides procedure for a Motion to Dismiss, we turn to the Arizona Rules of Civil Procedure and considered Citizens' filing as a motion to dismiss Autotel's petition for failure to state a claim upon which relief can be granted pursuant to Ariz. R. Civ. P. 12(b)(6).

On May 9, 2006, a date for oral argument and various filing deadlines were set.

On May 16, 2006, Autotel filed its Reply to Citizens' Motion to Dismiss.

On May 23, 2006, Citizens filed its Response.

On June 5, 2006, a hearing for the purpose of oral argument convened before a duly appointed Administrative Law Judge of the Commission. Richard Oberdorfer, President of Autotel, appeared by telephone on Autotel's behalf. Robert Metli and Kevin Saville appeared by telephone on behalf of

<sup>1</sup> Pursuant to the Act, the Commission must arbitrate the issues set forth in the Petition no later than the statutory nine month deadline, in this case, August 21, 2006.

1 Citizens. Mr. Oberdorfer and Mr. Saville made arguments relating to Citizens' motion to dismiss.

2 **Background**

3 This docket represents Autotel's third petition for an ICA with Citizens in three years.  
4 Autotel and Citizens are parties to an unexecuted ICA that was drafted in accordance with the issues  
5 raised and decided in Docket No. T-03234A-03-0188 ("Original Petition"), Decision No. 67273  
6 (October 5, 2004). Autotel refused to execute the ICA that incorporated the results of the Original  
7 Petition. Tr. at 7.

8 On November 21, 2005, in Docket No. T-01954B-05-0852, Autotel filed its Second Petition  
9 with the Commission<sup>2</sup>. The Commission determined in Decision No. 68605 (March 23, 2006), that  
10 Autotel was precluded from filing its Second Petition due to its pending appeal of the outcome of the  
11 Original Petition in the United States District Court for the District of Arizona.<sup>3</sup> The Commission  
12 dismissed Autotel's Second Petition with prejudice, admonishing Autotel "for its waste of  
13 administrative and judicial resources in filing this Notice while its Federal Complaint remains  
14 pending and while it has failed to make use of its Approved ICA...[I]t is our hope that Autotel will  
15 take this admonishment into account for purposes of future filings...."<sup>4</sup>

16 At oral argument in the instant matter, Mr. Oberdorfer stated Autotel's position "that the  
17 [Commission] does not have to arbitrate the rates, terms and conditions if it does not want to....[I]t  
18 can terminate this proceeding and let the parties take the remedies under the Act." *Id.* at 5. Mr.  
19 Oberdorfer stated that the federal suit remains pending, and that it is Autotel's position that Citizens  
20 did not prepare the ICA in accordance with the Decision arising from the Original Petition. *Id.* at 6.  
21 Mr. Oberdorfer added that the ICA "does not provide for the interconnection of Autotel's  
22 equipment." *Id.* at 7, 8. He further argued that under the Act, the duty to negotiate is continuous, and  
23 stated that "we really don't have an agreement" with Citizens, but "a Commission arbitration decision  
24 which is disputed." *Id.* at 9.

25 Mr. Saville argued that "the law is clear that competitive carriers like Autotel can't go through

26 <sup>2</sup> *In the Matter of the Request of Autotel for Interconnection, Services and Network Elements with Citizens Utilities Rural*  
27 *Company, Inc. and for an Inquiry by the Commission and Termination of the Exemption of Citizens Pursuant to Section*  
28 *251(f)(1)(B) of the Telecommunications Act of 1996* ("Second Petition").

<sup>3</sup> Citizens and the Commission have filed motions to dismiss, which remain pending with the federal court.

<sup>4</sup> Decision No. 68605, ¶14.

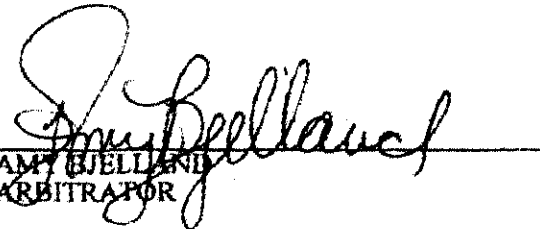
1 an arbitration proceeding and then decide at the end of the day after the arbitration that it is not happy  
2 with the results, and then seek to start the process over again by either opting into another  
3 interconnection agreement or re-starting the arbitration...[Autotel is asking the Commission] to start  
4 the process all over again and in affect [sic] disregard the [Original Petition]." *Id.* at 11, 12.

5 It is clear that Autotel is unhappy with the outcome of its Original Petition, as Mr. Oberdorfer  
6 has stated on the record, and Autotel has taken steps for redress by filing with the federal court for  
7 relief. Autotel's insistence in continuing to file successive petitions with the Commission is  
8 perplexing in light of the outcome of the Second Petition, which admonished Autotel for prematurely  
9 requesting arbitration of an ICA while the initial ICA sits idle pending the outcome of Autotel's  
10 federal appeal. The parties agreed on the record that there is language in the ICA arising from the  
11 Original Petition that allows the parties to amend the ICA through mutual agreement. Also, the  
12 federal appeal may resolve the issue for the parties.

13 Consistent with Decision No. 68605, Autotel's Petition for arbitration of an ICA with Citizens  
14 should be dismissed with prejudice.

15 IT IS THEREFORE ORDERED that Autotel's Petition in the instant docket shall be, and  
16 hereby is, dismissed with prejudice.

17 Dated this 28 day of July, 2006

18  
19  
20   
21 AMY BJELLAND  
22 ARBITRATOR

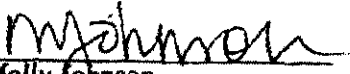
23 Copies of the foregoing mailed/delivered  
24 this 28 day of July, 2006 to:

25 Autotel  
26 114 North East Penn Avenue  
27 Bend, OR 97701

28 Kevin Saville  
Associate General Counsel  
CITIZENS UTILITIES RURAL COMPANY, INC.  
2378 Wilshire Blvd.  
Mound, MN 55364

1 Christopher Kempley, Chief Counsel  
2 Legal Division  
3 ARIZONA CORPORATION COMMISSION  
4 1200 West Washington Street  
5 Phoenix, AZ 85007

6 Ernest G. Johnson, Director  
7 Utilities Division  
8 ARIZONA CORPORATION COMMISSION  
9 1200 West Washington  
10 Phoenix, AZ 85007

11 By:   
12 Molly Johnson  
13 Secretary to Amy Bjelland  
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## CERTIFICATE OF SERVICE

I, Marianne Dugan, hereby certify that on October 16, 2006, I sent the foregoing document via email to the staff person of the FCC identified in the attached service list and to the FCC's duplicating contractor Best Copy and Printing, Inc., by sending it to:

Janice M. Myles  
Wireline Competition Bureau  
Federal Communications Commission  
janice.myles@fcc.gov

Best Copy and Printing, Inc.  
c/o Federal Communications Commission  
fcc@bcpiweb.com

and sent it via First Class United States Mail, postage prepaid, on the other addresses listed below:

Office of the Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

Arizona Corporation Commission  
1200 West Washington  
Phoenix, AZ 85007-2996

Kevin Saville, Associate General Counsel  
Frontier/Citizens Communications  
2378 Wilshire Blvd.  
Mound, MN 55364

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Marianne Dugan